



Emily O'Reilly

European Ombudsman

Mr Patrick Breyer  
Member of the European Parliament

patrick.breyer@europarl.europa.eu

Strasbourg, 20/12/2023

Complaint 2091/2023/AML

Dear Mr Breyer,

On 25 October 2023, you submitted a complaint to the European Ombudsman against the European Commission and Europol in relation to the Commission's proposal for a regulation to prevent and combat child sexual abuse material (CSAM) online.<sup>1</sup>

In your complaint, you raised concerns about the way the Commission designed and promoted its proposal for a regulation to fight CSAM. More specifically, you argued that there were suspicions of undue influence of certain technology stakeholders on the file, and that the Commission's promotion of its proposal on social media breached EU law and principles. Moreover, you expressed concerns that the recent move of two former Europol staff members to one of these stakeholders posed risks of conflict of interest.

I have decided to open an inquiry to investigate **how Europol dealt with the moves of two former staff members to positions related to combatting online child sexual abuse.**

As a first step, I have decided that it is necessary to inspect certain documents held by Europol related to these post-service activities. I expect to receive these documents by 15 January 2024.

Regarding the two other aspects that you raise in your complaint and that concern the European Commission, I regret to inform you that, for the reasons set out below, I will not pursue them as part of this inquiry.

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<sup>1</sup> COM/2022/209 final, also known as the proposal for a regulation to fight CSAM, and available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2022%3A209%3AFIN>



Regarding suspicions of undue influence on the file, I have received several complaints about refused public access to documents related to the Commission's interactions with stakeholders in the preparation of its legislative proposal to fight online CSAM. Most recently, I issued a recommendation to the Commission, asking it to reconsider its decision to refuse public access to the documents at issue in the complaint.<sup>2</sup> Specifically, I considered that disclosure of the documents at issue is necessary to enable the public to participate more effectively in a decision-making process at issue. I also considered that transparency would allow interested individuals to scrutinise who and what informed the legislative proposal in question. With reference to the Commission's Better Regulation Guidelines, I emphasised that stakeholders who actively provide input should not be allowed to do so behind closed doors.

I am now awaiting the Commission's reply to my recommendation. Because I am already pursuing the matter via these public access cases, I have decided that, for the moment, I will not open a separate inquiry on the basis of your complaint.

Finally, regarding your concerns that the Commission has breached EU law when promoting its proposal on social media, I note that the Commission has explained in the media that internal investigations are ongoing.<sup>3</sup> Therefore, for the moment, I do not find sufficient grounds to open an inquiry.

We will come back to you once we are in a position to update you on the progress of the inquiry on Europol. If you have any questions, please feel free to contact the Inquiries Officer in charge, Ms Amandine Le Bellec, who can be reached on +32 2 283 15 50 and at [amandine.lebellec@ombudsman.europa.eu](mailto:amandine.lebellec@ombudsman.europa.eu).

Yours sincerely,

Emily O'Reilly  
European Ombudsman

**Enclosure:** Letter to Europol in 2091/2023/AML.

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<sup>2</sup> The recommendation in complaint 1945/2023/MIG will be published on the Ombudsman's website on 8 January 2024. Further information on this case is available at: <https://www.ombudsman.europa.eu/en/case/en/65012>

<sup>3</sup> See for example: <https://www.euronews.com/my-europe/2023/11/16/eu-commission-faces-complaint-over-microtargeted-adverts-on-child-sexual-abuse-bill>